

Attachment A

DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY

May __, 2000

D.T.E. 99-116

Petition of The Berkshire Gas Company for authorization to carry on its gas business in the Town of Sunderland, Massachusetts, pursuant to the provisions of G.L. c. 164, sec. 30.

APPEARANCES: James M. Avery, Esq.

K. Jill Rizzzoti, Esq.

Rich, May, Bilodeau & Flaherty, P.C.

176 Federal Street

Boston, Massachusetts 02110

FOR: THE BERKSHIRE GAS COMPANY

Petitioner

I. INTRODUCTION

On December 30, 1999, The Berkshire Gas Company ("Berkshire Gas" or the "Company") filed a petition with the Department of Telecommunications and Energy

("Department") for approval and authorization to carry on its gas business in the Town of Sunderland ("Sunderland"), Massachusetts, pursuant to the provisions of G.L. c. 164, sec. 30.

A public hearing was conducted on May 9, 2000 at the Department's offices in Boston to allow the members of the general public to ask questions and express comments on the Company's petition. The Sunderland Board of Selectmen received direct notice of the hearing. An evidentiary hearing was held at the Department's offices in Boston on May 9, 2000 immediately after the public informational hearing. The Company presented one witness: Karen L. Zink, Vice President of Marketing and Resource Planning. The Department did not receive any petitions to intervene in this docket.

II. THE COMPANY'S PETITION

Berkshire Gas has requested that the Department approve its petition to provide service to Sunderland in this proceeding. There is currently no gas company now providing gas service to Sunderland.⁽¹⁾

Ms. Zink testified that the addition of new customers in Sunderland pursuant to Company's planned main extensions will benefit the existing customers of Berkshire Gas by spreading existing fixed costs for the Company over an expanded sales base and providing the Company with some opportunity to offset increased operating expenses. Exh. KLZ-1, p. 5; Tr. 30-31; Exh. DTE 1-16; Exh. DTE 1-19. Ms. Zink also explained that the expansion of gas service into Sunderland was consistent with numerous expressions of customer interest and also the interests of the Sunderland Board of Selectmen. Exh. KLZ-1, pp. 3-4, Att. D; Exh. DTE 1-7. Ms. Zink explained that the initial planned main extension would be for a distance of approximately 1,800 feet and that an additional extension of approximately 2.0 to 2.5 miles to an area in the vicinity of the Cliffside Apartments might be pursued in the future. Tr. 23-25. The initial extension would be completed during the 2000 construction season. Exh. KLZ-1, p. 3. Ms. Zink explained that the Company's initial 1,800 foot extension would generate a positive net return. Exh. KLZ-1, Att. E; Exh. DTE 1-11.

III. ANALYSIS AND FINDINGS

The Department's review of these petitions is undertaken pursuant to G. L. c. 164, sec. 30. Section 30 states that:

The Department may, after notice and a public hearing, authorize a gas or electric company to carry on its business in any town in the commonwealth other than the town named in its agreement of association or charter, subject to sections eighty-six to eighty-eight, inclusive, and it may purchase, hold and convey real and personal estate in such other town necessary for carrying on its business herein.

In assessing the reasonableness of this request, the Department must review the record compiled during its investigation of Berkshire Gas's petition. Bay State Gas Company, D.P.U. 87-62 (1987); Bay State Gas Company, D.P.U. 86-138/86-179, p. 6 (1987); Dover Water Company, D.P.U. 86-26/86-79, p. 2 (1986)

Upon review of the record, the Department notes that Sunderland currently does not have a local gas distribution company providing service to its residents. Exh. KLZ-1, p. 3, Att. A. The record demonstrates that the Company has received support for its proposal from the Sunderland Boards of Selectman and potential customers in the town. Exh. DTE 1-7; Exh. KLZ-1, Att. D. The Department finds that based on the record in this case, the Company can provide service to customers in Sunderland without adversely affecting service to its existing customers. Exh. KLZ-1, p. 5; Tr. 30-31; Exh. DTE 1-16; Exh. DTE 1-19. Accordingly, the Department finds that it is in the public interest to permit Berkshire Gas to extend gas service to Sunderland and to grant the Company's petition.

IV. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That The Berkshire Gas Company be and hereby is authorized to carry on its business of manufacturing, distributing and selling gas in the Town of Sunderland, Massachusetts.

By Order of the Department

James Connelly, Chairman

W. Robert Keating, Commissioner

Deirdre K. Manning, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

A true copy

Attest.

Mary L. Cottrell

Secretary

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

K:\utl\bec\DTE 99-116 decision

1. 1 Berkshire Gas had previously petitioned the Department for authority to carry on its business in the Town of Sunderland and the Department had approved such petition subject to the satisfaction of certain conditions by May 31, 1970. The Berkshire Gas Company, D.P.U. 16190 (1969). Berkshire testified in this proceeding that such conditions had not been satisfied (Tr. 35-36) and that, pursuant to the terms of the Department's order in D.P.U. 16190, such failure "automatically terminated" the authority granted in D.P.U. 16190.